

### **REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed July 9, 2009. Claims 17-37 are pending in this Application. Claims 17-37 were rejected. Claims 17-19 and 33-36 have been amended. Claims 1-16 were previously cancelled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

#### **Rejections under 35 U.S.C. § 112**

Claims 17-37 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully disagrees. The term “may be” as used in the claims does not render it automatically indefinite as alleged by the Examiner. In the present case, the term “may be” clearly refers to the capabilities of the terminal. To further prosecution, Applicant amend Claims 17-19 and 33-36 to overcome these rejections. However, Applicant would like to express that the scope of the claims have not changed and these amendments were not made to overcome any prior art.

#### **Rejections under 35 U.S.C. § 102**

Claims 17-19 and 24-36 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 7,330,542 issued to Timo Kauhanen et al (“*Kauhanen*”). Applicant respectfully traverses and submits the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The Examiner stated that *Kauhanen* allegedly discloses the step of “*providing a resulting profile information object which specifies process capabilities of said terminal and said connection component;*”. Applicant respectfully disagrees.

As expressly defined in this limitation, a resulting profile information object specifies the process capabilities of the terminal as well the connection component. Thus, such a profile includes at least process capabilities of two components involved in the data transmission, i.e. an intermediate component such as a connection component and the receiving component such as a terminal. *Kauhanen* neither discloses nor suggests to generate such a profile. *Kauhanen* clearly discloses to only store the profile of a terminal. (*Kauhanen*, Fig. 4. element 80, col. 3, ll. 36-45) The Examiner refers to col. 3, lines 46-55 as allegedly disclosing that a resulting profile stores the capabilities of the terminal and a connection component. Applicant respectfully disagrees. Fig. 4 of *Kauhanen* clearly shows that the profile only includes subscriber capabilities. Moreover, the paragraph in col. 3, lines 46-55 of *Kauhanen* does not refer to a profile but rather to a mapping step that is performed by the system. It has absolutely nothing to do with the profile 80 that can be stored in the subscriber database. The following paragraphs clearly state that only a user profile is stored and that this user profile can be updated. (*Kauhanen*, col. 4, ll. 2-18). However, this profile has no information about capabilities of a connection element. Moreover, *Kauhanen* specifically mentions the use of a subscriber multimedia profile database. This database is not named transmission path profile database but specifically subscriber multimedia profile database because it contains the profile of a subscriber. It therefore, only contains information of the terminal the subscriber is using. (*Kauhanen*, col. 6, ll. 16-18; col. 9, ll. 46-49). This profile stores nothing else but the capabilities of the current subscriber terminal. To this end, *Kauhanen* specifically states: “...the active subscriber multimedia profile 80 should not exceed the capabilities of the current terminal.” (*Kauhanen*, Fig. 4. element 80, col. 9, ll. 62-65) Hence, *Kauhanen* clearly does not disclose to generate a resulting profile as claimed.

With respect to the following steps in the independent claims, *Kauhanen* merely discloses to update a profile when a terminal is changed. However, because the profile used by *Kauhanen* does not include profile information of other elements than the terminal, there simply exists no need in *Kauhanen* to actually distinguish between different capabilities

stored in a profile according to different devices used in the transmission chain. *Kauhanen* therefore merely updates the respective profile with the capabilities of a new terminal. No other information is stored in this profile. (*Kauhanen*, col. 9, line 62 - col. 10, line 12)

In summary, *Kauhanen* does not disclose the specific steps included in the independent claims as stated above. Moreover, even though *Kauhanen* cannot anticipate the independent claims as stated above, *Kauhanen* does not seem to be appropriate prior art. The present application has a priority date of August 26, 2002 whereas *Kauhanen*'s §371 (c)(1), (2), (4) date is November 10, 2003.

Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102 or §103(a), if necessary, and do not concede that the Examiner's proposed rejections or combinations are proper.

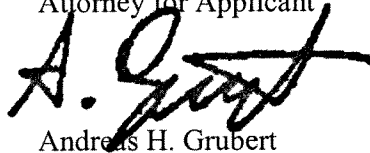
### CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes no fees are due. However, should the Commissioner deem that any additional fees are due, including any fees for additional extensions of time, the Commissioner is hereby authorized to debit such fees from Deposit Account No. 50-4871.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512-457-2000.

Respectfully submitted,  
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